

**UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:10cv181**

CARL EDWARD WILEY,

Plaintiff,

v.

BUNCOMBE COUNTY, et al.,

Defendants.

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ORDER

THIS MATTER is before the Court on Plaintiff's Motion for Production of Documents (Doc. No. 8); Plaintiff's Motions for Entry of Default (Doc. Nos. 11, 12, 14); and Plaintiff's Motion for Summary Judgment (Doc. No. 15).

Plaintiff has filed a motion requesting that Defendants produce various documents. (Doc. No. 8). Discovery motions should first be served upon a party; not filed with the Court. See Fed. R. Civ. P. 34(a). Plaintiff does not indicate that he has served his document requests on Defendants. Accordingly, Plaintiff's motion is not in compliance with the Federal Rules, and it is denied on that basis.

Plaintiff has also filed three motions asking that a default judgment be entered against Defendants for failure to answer or respond to his Complaint. (Doc. Nos. 11, 12, 13). In his motions, Plaintiff sets forth that court records indicate the United States Marshal Service has served the Defendants on various dates. The Court has independently reviewed the docket sheet and file and sees no indication that Defendants have been served. Indeed, no service has yet been ordered by the Court. Consequently, Plaintiff's motions seeking entry of default are denied.

Plaintiff has also filed a Motion for Summary Judgment. (Doc. No. 15). As the Defendants have not yet even been served, this Court will deny Plaintiff's Motion for Summary Judgment without prejudice as premature.

IT IS, THEREFORE, ORDERED that:

1. Plaintiff's Motion for Production of Documents (Doc. No. 8) is **DENIED**;
2. Plaintiff's Motions for Entry of Default (Doc. Nos. 11, 12, 14) are **DENIED**; and
3. Plaintiff's Motion for Summary Judgment (Doc. No. 15) is **DENIED WITHOUT PREJUDICE**.

Signed: December 28, 2010

A handwritten signature in cursive script, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.
Chief United States District Judge

